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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,036	03/31/2004	John A. Salentine	367-27-002	9301

23935 7590 01/19/2007
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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/816,036	Applicant(s) SALENTINE ET AL.	
	Examiner Justin M. Larson	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a ratchet lever (Figure 1) and a belt clip (Figure 2).
2. The drawings are objected to because in Figure 3, the lead line for reference number 24 is missing.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the retractable locking pin of claims 5 and 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to because page 10 establishes that Figures 1 and 2 show a Nokia type holstering attachment embodiment while Figures 4 and 5 show a different embodiment. The specification mentions that the two embodiments differ in the size and shape of the U-shape channel into which an electronic device is inserted. Examiner notes that the device shown in Figure 1 is identical to the device shown in Figures 4 and 5 and is not the same embodiment as that shown in Figure 2 as Applicant has disclosed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6 and 16 both recite the limitation "the legs of said U-shaped elevated slot". There is insufficient antecedent basis for this limitation in the claims as no "legs" have been set forth.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3, 4, 8-11, 13, 14, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohama (US 6,095,934 A).

Regarding claims 1 and 11, Ohama discloses a tethering system comprising a tether housing (110) having an internal tether (162) that is extendable, an internal spring (168) for biasing the tether into a retracted position, a mounting apparatus (114) integral to said tether housing for mounting said housing on a person, and a holstering system (140) integral to said tether housing. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Ohama which is capable of being used in the intended manner, i.e., a personal device being mounted to said tether housing with said tether attached to said personal device, said tether being extendable to allow use of said personal device while also preventing said personal device from falling to the ground when said tether housing is mounted. There is no structure in Ohama that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 3 and 13, the device of Ohama includes a lanyard attachment (170) that prevents said tether from fully retracting into said tether housing.

Regarding claims 4 and 14, the device of Ohama includes an elevated slot (140). The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Ohama which is capable of being used in the intended manner, i.e., the slot (140) receiving a pivoting ball of a personal device. There is no structure in Ohama that would prohibit such functional intended use (see MPEP 2111). Examiner notes that no structure of the pivoting ball has been set forth which would prevent it from being received in the slot of Ohama.

Regarding claims 8 and 9, the tether of Ohama can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claims 10 and 18, the device of Ohama includes a mounting clip (114).

9. Claims 1-4, 7-14, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 5,524,749 A).

Regarding claims 1 and 11, Thompson et al. disclose a tethering system comprising a tether housing (12b) having an internal tether (16) that is extendable, an internal spring (col. 3 line 25) for biasing the tether into a retracted position, a mounting apparatus (20) integral to said tether housing for mounting said housing on a person, and a holstering system (12a) integral to said tether housing and arranged to allow a personal device (24-27) to be mounted to said tether housing with said tether attached to said personal device, said tether being extendable to allow use of said personal

device while also preventing said personal device from falling to the ground when said tether housing is mounted.

Regarding claims 2 and 12, the device of Thompson et al. includes a lanyard loop (see esp. Figures 1B-1C) between said tether housing and said personal device, effectively satisfying the limitations of the claim. Examiner notes that when configured as shown in Figures 1B-1C, the button (22) could be pressed to lock the tether in place making it such that the personal device was mounted to the housing without there being tension on the tether.

Regarding claims 3 and 13, the device of Thomson et al. includes a lanyard attachment (30) that prevents said tether from fully retracting into said tether housing.

Regarding claims 4 and 14, the device of Thomson et al. includes an elevated slot (pocket formed in portion 12a). The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Thompson et al. which is capable of being used in the intended manner, i.e., the slot receiving a pivoting ball of a personal device. There is no structure in Thompson et al. that would prohibit such functional intended use (see MPEP 2111). Examiner notes that no structure of the pivoting ball has been set forth which would prevent it from being received in the slot of Thompson et al.

Regarding claims 7 and 17, the device of Thompson et al. includes a ratchet lock (22) to hold said tether at a desired extended length. Examiner notes that no structure

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of Applicant's ratchet lock is set forth in the claims that would define over the lock of Thompson et al. Both serve to hold a tether at a desired length.

Regarding claims 8 and 9, the tether of Thompson et al. can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claims 10 and 18, Thompson et al. teach that the mounting device may include a mounting clip (20a, Figure 4A).

10. Claims 1, 4, 8-11, 14, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Decoteau (US 6,502,727 B1).

Regarding claims 1 and 11, Decoteau discloses a tethering system comprising a tether housing (12) having an internal tether (26) that is extendable, an internal spring (34) for biasing the tether into a retracted position, a mounting apparatus (14) integral to said tether housing for mounting said housing on a person, and a holstering system (16) integral to said tether housing and arranged to allow a personal device (30) to be mounted to said tether housing with said tether attached to said personal device, said tether being extendable to allow use of said personal device while also preventing said personal device from falling to the ground when said tether housing is mounted.

Regarding claims 4 and 14, the device of Decoteau includes an elevated slot (16). The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Decoteau which is capable of being used in the intended manner, i.e., the slot (16) receiving a pivoting ball of a personal device. There

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is no structure in Decoteau that would prohibit such functional intended use (see MPEP 2111). Examiner notes that no structure of the pivoting ball has been set forth which would prevent it from being received in the slot of Decoteau.

Regarding claims 8 and 9, the tether of Decoteau can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claims 10 and 18, the device of Decoteau includes a mounting clip (14).

11. Claims 1, 4, and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong (US 6,546,103 B1).

Regarding claim 1, Wong discloses a tethering system comprising a tether housing (10) having an internal tether (12) that is extendable, a mounting apparatus (40/41) integral to said tether housing, and a holstering system (30) integral to said tether housing and arranged to allow a personal device (21) to be mounted to said tether housing with said tether attached to said personal device, said tether being extendable to allow use of said personal device while also preventing said personal device from falling to the ground when said tether housing is mounted.

Regarding claim 4, the device of Wong includes an elevated slot (in 30). The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Wong which is capable of being used in the intended manner, i.e., the slot receiving a pivoting ball of a personal device. There is no structure in Wong that

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would prohibit such functional intended use (see MPEP 2111). Examiner notes that no structure of the pivoting ball has been set forth which would prevent it from being received in the slot of Wong.

Regarding claims 8 and 9, the tether of Wong can be considered to extend through either a top or front surface of the housing, depending on how the housing is viewed.

Regarding claim 10, the device of Decoteau includes a mounting clip (40/41).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 11, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong as applied in paragraph 11 above in view of Decoteau.

The device of Wong includes the claimed limitations except for the tether retraction system including a spring. Wong is silent as to the existence of such a spring. Decoteau, however, also teaches such a retraction system and teaches that a spring (34) drive the retraction of the tether. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a spring with the retraction system of Wong, as taught by Decoteau, so that the retraction system had a driving force to cause the retraction of the spool.

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14. Claims 5, 6, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decoteau as applied in paragraph 10 above or Wong in view of Decoteau as applied in paragraph 13 above, either in view of Tien (US 5,620,120 A).

The device of Decoteau and the modified device of Wong each include the claimed features except for the elevated slot comprising a retractable locking pin and one of the legs of the elevated slot comprising a hinge, the pin and hinge both serving to secure a personal device in the slot. Tien, however, also discloses an attachment for a personal device, the attachment including a U-shaped elevated slot (11). Tien teaches that the slot includes a leg (13) which has a hinge (18/140) and a retractable locking pin (15), wherein the pin and hinge serve to secure a personal device (30) in the slot. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the mounting device (slot 16) of the Decoteau device or the mounting device (slot 30) of the modified Wong device with the mounting device (slot 11) of Tien, since all are equivalent means for securing personal devices to attachment members. The mounting device taught by Tien allows for improved mechanical securement of the personal device to the attachment member as the pin blocks the travel path of the personal device out of the slot.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art includes various tethered devices and general personal device holders

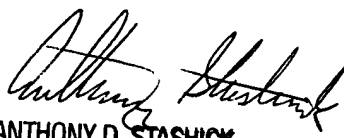
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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
1/3/07


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